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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Magid)	Art Unit: 2192
)	
Serial No.: 10/629,431)	Examiner: Pham
)	
Filed: July 29, 2003)	SVL920030039US1
)	
For: SYSTEM AND METHOD FOR INTERCEPTING)	September 18, 2007
USER EXIT INTERFACES IN IMS PROGRAMS)	750 B STREET, Suite 3120
)	San Diego, CA 92101
)	

REPLY BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This responds to the Examiner's Answer dated September 10, 2007. In response to Appellant's observation that Fortin is utterly silent on the topic of enabling a single exit (*appearing in all independent claims*) to be used by multiple users, the Answer somewhat irrelevantly analyzes Fortin's Interface Routine as being dynamically loaded at invocation, with control being passed to an exit code, pages 9 and 10 of Answer. The import of the majority of the argument is unclear, but what appears to be the kernel of the examiner's point is on lines 14 and 15 of page 10: that a Common Exit Code is provided as a single shared copy so that a large number of routines can be instrumented. According to the examiner, this means that a "single exit is used by plural target routines".

The *non-sequitur* of this argument, however, is obvious. Providing a common exit code as a single shared copy "so that a large number of routines can be instrumented" must be read for what it says, not for what the examiner restates it as saying. "Instrumenting" a large number of routines is not the same thing as

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providing a single exit to plural users, much less providing it *simultaneously* to plural users as required by, e.g., Claim 1. The relied-upon target routine(s), for all that Fortin teaches, do not use the common exit code *simultaneously*, nor does Fortin imply that "instrumenting a large number of routines" means "enabling simultaneous use of a single exit by plural users." Confining analysis of Fortin to what it actually teaches, as opposed to what it purports to teach in examiner rationalizations that follow the red flag introductory phrase "in other words", the rejections merit reversal.

The analysis in the Answer of Baer on pages 10 and 11 notwithstanding, Appellant's point that Baer nowhere mentions user entry and exit routines, much less that its principles, which are intended to simplify storing and accessing things that are very much different from the routines of Fortin, can be used with such routines, remains un rebutted. That Baer stores objects in libraries is immaterial to its lack of suggestion to involve its principles with the completely different teachings of Fortin.

The allegation on page 12 of the Answer that Appellant quoted Fortin out of context merits comment. Appellant, unlike the examiner, never recast Fortin to say things it does not say, and this was the crux of the allegedly "out of context" quoting. Appellant merely reflected that the use of various teachings in Fortin to meet very different recitations in the claims came unsupported by evidence of equivalence. However, now that the Answer has opened the floodgates by dwelling on what is an exceptionally weak point, Appellant will oblige.

The Answer quotes Fortin as teaching that a demux entry directs an instrumentation call to the appropriate common and user specific entry and exit routines. The plain reading of this is that a call is directed to certain routines, period. There is no reason to read into this teaching that plural calls are directed

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simultaneously to a single exit as required by Claim 1, nor in fact does the Answer attempt to allege otherwise.

The Answer does not rebut Appellant's comments as to the inappositeness of Chan, conceding them.

With respect to the fact that Claim 8 requires comparing a "candidate user-exit" load module to a predetermined interception routine "eye-catcher", and treating a non-matching "candidate user-exit" load module as a user exit routine not being taught as otherwise alleged in Fortin, figures 3 and 7 and "associated text", the examiner now jumps around to figure 6A as a teaching of computing and retrieving the address for a user-supplied exit instrumentation routine. The Answer then combines figures 6 and 7 to conclude that "without comparing the user supplied instrumentation routines (i.e., candidate user-exit) to a predetermined interception routine "eye catcher" (e.g., either common exit code or the user supplied entry instrumentation routines in the instrumentation library of fig. 7, it would be impossible for the demux entry of fig. 6A to select (i.e., treating the candidate user-exit as a user exit routine) and compute the right address of the exit instrumentation routine" (underlinings and capitalizations omitted for clarity).

Whatever the merits or lack thereof of the various "id ests" and "exempli gratia" used throughout the argument above as well as the Answer as a whole, what is noteworthy is that nowhere does Fortin teach, nor do the conferees allege, that a non-matching candidate user-exit load module is treated as a user exit routine. No mention appears in this portion of the Answer about what happens if no match is found in Fortin, much less that a non-matching entity is treated as anything, much less still that it is treated as a user exit routine.

The Answer's response to Appellant's trenchant observation about Claim 21 being limited by the sixth paragraph of Section 112 continues to evince an unfamiliarity on the part of the examiner both with the statute


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and with MPEP §2181, because it never attempts to explain why the allegedly non-statutory subject matter hypothesized in the rejection should be considered the structural equivalent of the disclosed structure.

Respectfully submitted,



John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

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